

ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

RECEIVED

SEP 30 2005

Federal Communications Commission
Office of Secretary

In the Matter of

Federal-State Joint Board on
Universal Service

Petition by
RSA 7 Limited Partnership,
Iowa 8 - Monona Limited
Partnership, and Iowa RSA 10
General Partnership

CC Docket No. 96-45

DOCKET FILE COPY ORIGINAL

To: Marlene H. Dortch, Secretary
Attn: Wireline Competition Bureau

**PETITION OF RSA 7 LIMITED PARTNERSHIP,
IOWA 8 - MONONA LIMITED PARTNERSHIP, AND
IOWA RSA 10 GENERAL PARTNERSHIP**

RSA 7 Limited Partnership, Iowa 8 - Monona Limited
Partnership, and Iowa RSA 10 General Partnership ("Iowa
Petitioners"), by and through its counsel, and coincident with
Section 214(e) of the Communications Act of 1934, as amended
("Communications Act"), 47 U.S.C. §214(e), and 47 C.F.R. § 54.207
hereby submit this Petition and provide the Commission with 1)
service area definitions established by the Utilities Board of

No. of Copies rec'd
List A B C D E

094

Iowa (Utilities Board) and 2) the analysis conducted by the Utilities Board relating to the same.¹

PETITIONER BACKGROUNDS

All three petitioners are Iowa wireless carriers that were designated as eligible telecommunications carriers by the Utilities Board on September 13, 2004. Such designations were for study areas established in accordance with Iowa regulations (see, 199 IAC 39.2(5)(c)).

RSA 7 Limited Partnership is the licensee of Cellular Radiotelephone Service Station KNKN611, which serves Iowa Rural Service Area 7 - Audubon (Cellular Market Area 418). Its FCC-licensed wireless service area consists of the Iowa counties of Audubon, Guthrie, Cass, Adair and Madison. This five-county service area encompasses portions of the Iowa study areas of Qwest Corporation and thirteen rural telephone companies, including some partial wire centers.

Iowa 8 - Monona Limited Partnership is the licensee of Cellular Radiotelephone Service Station KNKN530, which serves Iowa Rural Service Area 8 - Monona (Cellular Market Area 419). Its FCC-licensed wireless service area consists of the Iowa

¹ On or about July 1, 2005, the Iowa Petitioners submitted a Petition for Declaratory Ruling in this docket. This instant pleading is separate from the July 1, 2005, petition. Iowa Petitioners continue to assert that the facts, circumstances and interpretations provided in the July 1, 2005, Petition for Declaratory Ruling remain valid and properly submitted before the Commission. The submission of this instant pleading is not inconsistent with the July 1, 2005, pleading nor does the submission of this instant petition give rise to a claim of estoppel, *in pais*, or otherwise.

counties of Monona, Crawford, Harrison and Shelby. This four-county service area encompasses the entire Iowa study areas of two rural telephone companies and portions of the Iowa study areas of Qwest Corporation and six rural telephone companies, including some partial wire centers.

Iowa RSA 10 General Partnership is the licensee of Cellular Radiotelephone Service Station KNKN363, which serves Iowa Rural Service Area 10 - Humboldt (Cellular Market Area 421). Its FCC-licensed wireless service area consists of the Iowa counties of Humboldt, Wright, Webster, Hamilton, Boone and Story. This six-county service area encompasses the entire Iowa study areas of six rural telephone companies and portions of the Iowa study areas of Qwest Corporation and eight rural telephone companies, including some partial wire centers.

PROCEDURAL HISTORY

During November 2002, the Iowa Petitioners each filed individual applications with the Utilities Board for universal service eligible carrier status. Each Petitioner supplemented their applications in December 2002 and again supplemented the applications in July of 2004. In each application, the Utilities Board acknowledged that the Communications Act establishes a requirement that "the Board must determine that a carrier meets

[a set of] service requirements before it may be designated an eligible carrier . . . "2

On September 13, 2004, nearly two years after the Iowa Petitioners filed their applications and following the requisite level of analyses specifically referred to in the Utilities Board Orders, the state granted eligible telecommunications carrier status to each of the Iowa Petitioners.³ In reaching its decisions, the Utilities Board specifically referenced the fact that the Iowa Petitioners had submitted applications and supplements which were "unopposed."⁴ In addition, the Utilities Board established a service area for the purpose of determining universal service support mechanisms for each of the Petitioners as the FCC licensed service areas for the cellular service.⁵

² Order Designating Eligible Carrier, In Re: RSA 7 Limited Partnership, Docket No. 199 IAC 39.2(4), (Iowa Dept. Of Commerce, Utilities Bd., issued September 13, 2004), Page 2; Order Designating Eligible Carrier, In Re: Iowa 8 - Monona Limited Partnership, Docket No. 199 IAC 39.2(4), (Iowa Dept. Of Commerce, Utilities Bd., issued September 13, 2004), Page 2; and Order Designating Eligible Carrier, In Re: Iowa RSA 10 General Partnership, Docket No. 199 IAC 39.2(4), (Iowa Dept. Of Commerce, Utilities Bd., issued September 13, 2004), Page 2.

³ *Id.*

⁴ *Id.* at page 3. Compare, Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371, (2005) at para. 74 ("... public comment is invited during every step in the process to ensure that the states and Commission are fully apprised of any impact the redefinition may have on the rural incumbent LEC").

⁵ Order Designating Eligible Carrier, In Re: RSA 7 Limited Partnership, Docket No. 199 IAC 39.2(4), (Iowa Dept. Of Commerce, Utilities Bd., issued September 13, 2004), Page 4; Order Designating Eligible Carrier, In Re: Iowa 8 - monona Limited Partnership, Docket No. 199 IAC 39.2(4), (Iowa Dept. Of Commerce, Utilities Bd., issued September 13, 2004), Page 4; and Order Designating Eligible Carrier, In Re: Iowa RSA 10 General Partnership, Docket No. 199 IAC 39.2(4), (Iowa Dept. Of Commerce, Utilities Bd., issued September 13, 2004), Page 4. Compare, 47 U.S.C. 214(e)(5) defining "the term 'service area' means geographic area established by a State commission . . . for the purpose of determining universal service obligations and support mechanisms."

Procedurally, the Utilities Board complied fully with its requirements under the Communications Act. Coincident with 47 C.F.R. 54.207, a copy of all three decisions by the Utilities Board are attached hereto as Exhibits 1, 2 and 3.

DISCUSSION

Section 214(e) of the Act provides that state commissions generally have the authority to grant eligible telecommunications carrier status to carriers that satisfy the requirements of the federal universal service rules under Section 254(c) and to define the carriers' service areas. Section 214(e) further provides that state commissions have the authority to establish the geographic area to be used as a "service area" for the purposes of determining universal service obligations and support mechanisms.⁶ The Utilities Board has complied with the Communications Act and rendered a reasoned decision for each of the Iowa Petitioners.

The Iowa Administrative Code, 199 IAC 39.2(5)(c), provides the underpinnings for each of the Utilities Board's three decisions designating the Iowa Petitioners as eligible telecommunications carriers and specifying their service areas. During a rulemaking proceeding that spanned numerous months between 2003 and 2004, the Utilities Board conducted public

⁶ Section 214(e)(5) continues with a sentence that refers to an area served by a rural telephone company and the service area for such company. See, footnote 1, *supra*.

hearings and received written comments from nine different companies regarding the "service areas" which state commissions are required to designate.

The Utilities Board Order in that rulemaking proceeding describes the administrative procedures undertaken by the state commission. In addition, the Order also reflects that the state agency was familiar with cream-skimming analyses and other factors which the Joint Board had identified. Specifically, in adopting its rule for Iowa, the Utilities Board made specific references to the FCC's *Highland Cellular* decision and the Utilities Board enumerated and analyzed each of the factors raised in *Highland Cellular*.⁷

The state agency decisions, both generally and individually for the Iowa Petitioners, reflect a well reasoned administrative procedure that is specific to the unique requirements and characteristics of Iowa. As the state regulatory agency, the Utilities Board was able to employ its vast knowledge and authority over its jurisdiction to reach the decisions that it issued with deference to federal requirements.

Having properly exercised its authority, the Utilities Board decision to grant eligible telecommunications carrier status to the Iowa Petitioners became effective when issued. Similarly,

⁷ Order Adopting Rule, In re: *Eligible Telecommunications Carrier Designation for Wireless Carriers*, Docket No. RMU-03-13 (Iowa Dept. Of Commerce, Utilities Board, issued May 24, 2004) p. 4. Attached at Exhibit 4.

the decisions established the "study area" for each of the Iowa Petitioners in accordance with Section 214(e)(5) of the Communications Act.

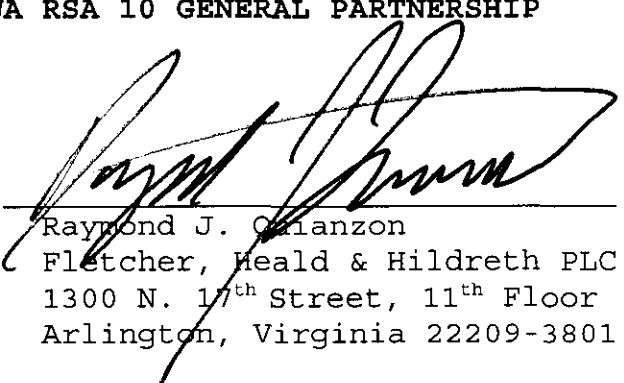
CONCLUSION

For the foregoing reasons, the Iowa Petitioners respectfully submit this Petition to provide the Commission with the Utilities Board decisions. This Petition is submitted for the Commission's agreement with the Utilities Board's decision regarding each of the Iowa Petitioners, their eligible telecommunications carrier status, and their service area for universal service purposes, as such would apply *ab initio*, relating back to the date of the state commission's decisions.

Respectfully submitted,
RSA 7 LIMITED PARTNERSHIP
IOWA 8 - MONONA LIMITED PARTNERSHIP
IOWA RSA 10 GENERAL PARTNERSHIP

Dated: September 30, 2005

By



Raymond J. Grianzon
Fletcher, Heald & Hildreth PLC
1300 N. 17th Street, 11th Floor
Arlington, Virginia 22209-3801

Michael G. Kulik
Robert F. Holz, Jr.
Davis, Brown, Koehn, Shors &
Roberts, P.C.
666 Walnut Street, Suite 2500
Des Moines, Iowa 50309

Exhibit 1

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

RSA 7 LIMITED PARTNERSHIP

DOCKET NO. 199 IAC 39.2(4)

ORDER DESIGNATING ELIGIBLE CARRIER

(Issued September 13, 2004)

On November 8, 2002, RSA 7 Limited Partnership (RSA 7) filed with the Utilities Board (Board) an application for universal service eligible carrier status in Iowa. RSA 7 asks that the Board designate it as an eligible telecommunications carrier pursuant to 199 IAC 39.2(4). On December 4, 2002, RSA 7 filed a supplement to its initial application indicating that it would file a description of its service and rate plans used in its universal service offering.

At the time RSA 7 filed its application, the Board's rules required that a wireless carrier seeking designation as an eligible telecommunications carrier (ETC) was required to provide universal fund-supported services throughout the historic landline exchange. This requirement was often unable to be met by wireless carriers, whose service areas often included part, but not all, of a landline exchange.

On August 25, 2003, the Board initiated a rule making, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, Docket No. RMU-03-13, which was intended to bridge the gap that existed between wireless and

wireline companies with respect to the receipt of universal service funding by allowing wireless companies to serve parts of incumbent service areas pursuant to their operating licenses issued by the Federal Communications Commission (FCC). Due to the initiation of the rule making, the Board suspended action on RSA 7's application pending the outcome of the rule making.

On May 24, 2004, the Board adopted 199 IAC 39.2(5)"c," which grants eligible telecommunications carrier (ETC) status to wireless telecommunications carriers that apply for that status, based on their certification from the FCC. On July 30, 2004, RSA 7 filed a second supplement to its original application.

Board rule 39.2 provides a means by which the Board can designate Iowa telecommunications companies to be eligible to receive funding from the universal service fund, as defined by the Telecommunications Act of 1996, 47 U.S.C. § 254. Under the Act (and FCC regulations implementing the Act), the Board must determine that a carrier meets the following service requirements before it may be designated an eligible carrier as set forth in rule 39.2(4):

- 1) Offer the services supported by the federal universal service fund;
- 2) Offer the service using its own facilities or a combination of its own facilities and resale (47 C.F.R. § 54.201(c) provides that "own facilities" includes purchased unbundled network elements);
- 3) Advertise the availability of the supported services; and,

4) Offer the services throughout the designated service area.

An ETC must also offer a minimum amount of local exchange service, defined in usage minutes, provided with no additional charge to customers. See FCC 98-272, October 26, 1998. See also 199 IAC 39.2(1)"b." The FCC has not yet quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate rule making proceeding to address this issue. Id. Any minimum local usage requirements established by the FCC as a result of that rule making would be applicable to all designated ETCs. The Board understands that RSA 7 will comply with any and all minimum local usage requirements adopted by the FCC. The Board also understands that until the FCC establishes a minimum requirement, RSA 7 will offer at least one universal service offering with unlimited local calling.

In its initial request for designation and in its supplements to that request, RSA 7 states that it satisfies each of these named requirements. Based upon those unopposed representations and the company's commitment to follow the minimum local usage requirements when adopted by the FCC, the Board finds that RSA 7 offers the services supported by the federal universal service fund, using its own facilities or a combination of its own facilities and resale of the facilities of another carrier.

RSA 7 states that it is licensed by the FCC to serve only Audubon, Guthrie, Cass, Adair, and Madison counties in Iowa and that it intends to provide universal

service fund-supported services throughout its licensed service areas. The Board finds that this assertion by RSA 7 satisfies Board rule 39.2(5).

RSA 7 also states that it will provide to the Board for informational purposes, a description of the service and rate plan(s) when it commences provision of universal service fund offerings to Iowa customers. The Board finds these commitments by RSA 7 adequate to assure that public interest concerns will be satisfied.

The Board also notes that pursuant to a recent federal mandate, RSA 7 is required to file a certification regarding its use of universal service funds with the Board. This filing will be made pursuant to the Board's rule 199 IAC 22.2(7), as described in Docket No. RMU-01-14, In re: Certification of Rural and Non-Rural Telecommunications Carriers.

IT IS THEREFORE ORDERED:

1. Eligible telecommunications carrier status is granted to RSA 7 Limited Partnership, as requested in its application filed November 8, 2002, and supplemented on December 4, 2002, and July 30, 2004, subject to the voluntary commitments described in the body of this order.
2. The designated service area for RSA 7 Limited Partnership shall be the area where RSA 7 Limited Partnership is licensed by the Federal Communications Commission to provide service.
3. The Executive Secretary of the Utilities Board shall mail copies of this order to RSA 7 Limited Partnership, the Universal Service Administration Company,

DOCKET NO. 199 IAC 39.2(4)
PAGE 5

the Federal Communications Commission Universal Service Branch, and the Federal
Communications Commission Office of the Secretary.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 13th day of September, 2004.

Exhibit 2



STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

IOWA 8 – MONONA LIMITED PARTNERSHIP

Docket No. 199 IAC 39.2(4)

"ORDER DESIGNATING ELIGIBLE CARRIER"

Issued September 13, 2004

Parties Served:

Robert F. Holz, Jr.
Davis, Brown, Koehn,
Shors & Roberts, P.C.
666 Walnut Street, Suite 2500
Des Moines, IA 50309-3993

John R. Perkins
Consumer Advocate
Iowa Department of Justice
Office of Consumer Advocate
310 Maple Street
Des Moines, IA 50319-0063

CERTIFICATE

The undersigned hereby certifies that the foregoing document has been served upon all parties of record in this proceeding in accordance with the requirements of the rules of the Iowa Utilities Board.

Dated September 13, 2004
Shawrice Camero

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

IOWA 8 – MONONA LIMITED
PARTNERSHIP

DOCKET NO. 199 IAC 39.2(4)

ORDER DESIGNATING ELIGIBLE CARRIER

(Issued September 13 , 2004)

On November 8, 2002, Iowa 8 – Monona Limited Partnership (Iowa 8) filed with the Utilities Board (Board) an application for universal service eligible carrier status in Iowa. Iowa 8 asks that the Board designate it as an eligible telecommunications carrier (ETC) pursuant to 199 IAC 39.2(4). On December 6, 2002, Iowa 8 filed a supplement to its initial application indicating that it would file a description of its service and rate plans used in its universal service offering.

At the time Iowa 8 filed its application, the Board's rules required that a wireless carrier seeking designation as an eligible telecommunications carrier (ETC) was required to provide universal fund-supported services throughout the historic landline exchange. This requirement was often unable to be met by wireless carriers whose service areas often included part, but not all, of one or more landline exchanges.

On August 25, 2003, the Board initiated a rule making, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, Docket No.

RMU-03-13, which was intended to bridge the gap that existed between wireless and wireline companies with respect to the receipt of universal service funding by allowing wireless companies to serve parts of incumbent service areas pursuant to their operating licenses issued by the Federal Communications Commission (FCC). Due to the initiation of the rule making, the Board suspended action on Iowa 8's application pending the outcome of the rule making.

On May 24, 2004, the Board adopted 199 IAC 39.2(5)"c," which grants eligible telecommunications carrier (ETC) status to wireless telecommunications carriers that apply for that status, based on their certification from the FCC. On July 30, 2004, Iowa 8 filed a second supplement to its original application.

Board rule 39.2 provides a means by which the Board can designate Iowa telecommunications companies to be eligible to receive funding from the universal service fund, as defined by the Telecommunications Act of 1996, 47 U.S.C. § 254. Under the Act (and FCC regulations implementing the Act), the Board must determine that a carrier meets the following service requirements before it may be designated an eligible carrier as set forth in rule 39.2(4):

- 1) Offer the services supported by the federal universal service fund;
- 2) Offer the service using its own facilities or a combination of its own facilities and resale (47 C.F.R. § 54.201(c) provides that "own facilities" includes purchased unbundled network elements);

- 3) Advertise the availability of the supported services; and,
- 4) Offer the services throughout the designated service area.

An ETC must also offer a minimum amount of local exchange service, defined in usage minutes, provided with no additional charge to customers. See FCC 98-272, October 26, 1998. See also 199 IAC 39.2(1)"b." The FCC has not yet quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate rule making proceeding to address this issue. Id. Any minimum local usage requirements established by the FCC as a result of that rule making would be applicable to all designated ETCs. The Board understands that Iowa 8 will comply with any and all minimum local usage requirements adopted by the FCC. The Board also understands that until the FCC establishes a minimum requirement, Iowa 8 will offer at least one universal service offering with unlimited local calling.

In its initial request for designation and in its supplements to that request, Iowa 8 states that it satisfies each of these named requirements. Based upon those unopposed representations and the company's commitment to follow the minimum local usage requirements when adopted by the FCC, the Board finds that Iowa 8 offers the services supported by the federal universal service fund, using its own facilities or a combination of its own facilities and resale of the facilities of another carrier.

Iowa 8 states that it is licensed by the FCC to serve only Monona, Crawford, Harrison, and Shelby counties in Iowa and that it intends to provide universal service fund-supported services throughout its licensed service area. The Board finds that this assertion by Iowa 8 satisfies Board rule 39.2(5).

Iowa 8 also states that it will provide to the Board for informational purposes, a description of the service and rate plan(s) when it commences provision of universal service fund offerings to Iowa customers. The Board finds these commitments by Iowa 8 adequate to assure that public interest concerns will be satisfied.

The Board also notes that pursuant to a recent federal mandate, Iowa 8 is required to file a certification regarding its use of universal service funds with the Board. This filing will be made pursuant to the Board's rule 199 IAC 22.2(7), as described in Docket No. RMU-01-14, In re: Certification of Rural and Non-Rural Telecommunications Carriers.

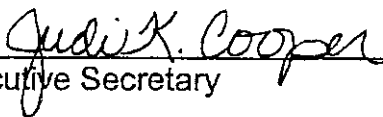
IT IS THEREFORE ORDERED:

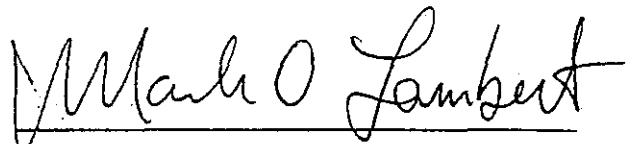
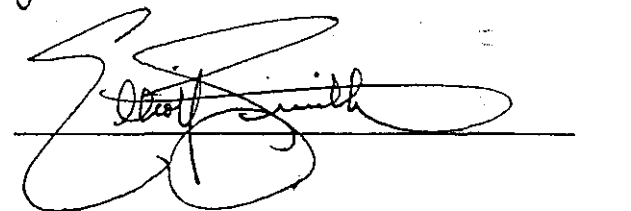
1. Eligible telecommunications carrier status is granted to Iowa 8 – Monona Limited Partnership, as requested in its application filed November 8, 2002, and supplemented on December 6, 2002, and July 30, 2004, subject to the voluntary commitments described in the body of this order.
2. The designated service area for Iowa 8 – Monona Limited Partnership shall be the area where Iowa 8 – Monona Limited Partnership is licensed by the Federal Communications Commission to provide service.

3. The Executive Secretary of the Utilities Board shall mail copies of this order to Iowa 8 – Monona Limited Partnership, the Universal Service Administration Company, the Federal Communications Commission Universal Service Branch, and the Federal Communications Commission Office of the Secretary.

UTILITIES BOARD

ATTEST:


Executive Secretary

Dated at Des Moines, Iowa, this 13th day of September, 2004.

Exhibit 3



STATE OF IOWA

THOMAS J. VILSACK
GOVERNOR
SALLY J. PEDERSON
LT. GOVERNOR

IOWA UTILITIES BOARD
IOWA DEPARTMENT OF COMMERCE

IOWA RSA 10 GENERAL PARTNERSHIP

Docket No. 199 IAC 39.2(4)

"ORDER DESIGNATING ELIGIBLE CARRIER"

Issued September 13, 2004

Parties Served:

Robert F. Holz, Jr.
Davis, Brown, Koehn,
Shors & Roberts, P.C.
666 Walnut Street, Suite 2500
Des Moines, IA 50309-3993

John R. Perkins
Consumer Advocate
Iowa Department of Justice
Office of Consumer Advocate
310 Maple Street
Des Moines, IA 50319-0063

CERTIFICATE

The undersigned hereby certifies that the foregoing document has been served upon all parties of record in this proceeding in accordance with the requirements of the rules of the Iowa Utilities Board.

Dated September 13, 2004
Shawrice Cameron

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

IOWA RSA 10 GENERAL PARTNERSHIP

DOCKET NO. 199 IAC 39.2(4)

ORDER DESIGNATING ELIGIBLE CARRIER

(Issued September 13, 2004)

On November 8, 2002, Iowa RSA 10 General Partnership (Iowa RSA 10) filed with the Utilities Board (Board) an application for universal service eligible carrier status in Iowa. Iowa RSA 10 asks that the Board designate it as an eligible telecommunications carrier (ETC) pursuant to 199 IAC 39.2(4). On December 4, 2002, Iowa RSA 10 filed a supplement to its initial application indicating that it would file a description of its service and rate plans used in its universal service offering.

At the time Iowa RSA 10 filed its application, the Board's rules required that a wireless carrier seeking designation as an eligible telecommunications carrier (ETC) was required to provide universal fund-supported services throughout the historic landline exchange. This requirement was often unable to be met by wireless carriers whose service areas often included part, but not all, of one or more landline exchanges.

On August 25, 2003, the Board initiated a rule making, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, Docket No. RMU-03-13, which was intended to bridge the gap that existed between wireless and

wireline companies with respect to the receipt of universal service funding by allowing wireless companies to serve parts of incumbent service areas pursuant to their operating licenses issued by the Federal Communications Commission (FCC). Due to the initiation of the rule making, the Board suspended action on Iowa RSA 10's application pending the outcome of the rule making.

On May 24, 2004, the Board adopted 199 IAC 39.2(5)"c," which grants eligible telecommunications carrier (ETC) status to wireless telecommunications carriers that apply for that status, based on their certification from the FCC. On July 30, 2004, Iowa RSA 10 filed a second supplement to its original application.

Board rule 39.2 provides a means by which the Board can designate Iowa telecommunications companies to be eligible to receive funding from the universal service fund, as defined by the Telecommunications Act of 1996, 47 U.S.C. § 254. Under the Act (and FCC regulations implementing the Act), the Board must determine that a carrier meets the following service requirements before it may be designated an eligible carrier as set forth in rule 39.2(4):

- 1) Offer the services supported by the federal universal service fund;
- 2) Offer the service using its own facilities or a combination of its own facilities and resale (47 C.F.R. § 54.201(c) provides that "own facilities" includes purchased unbundled network elements);
- 3) Advertise the availability of the supported services; and,

- 4) Offer the services throughout the designated service area.

An ETC must also offer a minimum amount of local exchange service, defined in usage minutes, provided with no additional charge to customers. See FCC 98-272, October 26, 1998. See also 199 IAC 39.2(1)"b." The FCC has not yet quantified a minimum amount of local usage required to be included in a universal service offering, but has initiated a separate rule making proceeding to address this issue. Id. Any minimum local usage requirements established by the FCC as a result of that rule making would be applicable to all designated ETCs. The Board understands that Iowa RSA 10 will comply with any and all minimum local usage requirements adopted by the FCC. The Board also understands that until the FCC establishes a minimum requirement, Iowa RSA 10 will offer at least one universal service offering with unlimited local calling.

In its initial request for designation and in its supplements to that request, Iowa RSA 10 states that it satisfies each of these named requirements. Based upon those unopposed representations and the company's commitment to follow the minimum local usage requirements when adopted by the FCC, the Board finds that Iowa RSA 10 offers the services supported by the federal universal service fund, using its own facilities or a combination of its own facilities and resale of the facilities of another carrier.

Iowa RSA 10 states that it is licensed by the FCC to serve only Humboldt, Wright, Webster, Hamilton, Boone, and Story counties in Iowa and that it intends to

provide universal service fund-supported services throughout its licensed service area. The Board finds that this assertion by Iowa RSA 10 satisfies Board rule 39.2(5).

Iowa RSA 10 also states that it will provide to the Board for informational purposes, a description of the service and rate plan(s) when it commences provision of universal service fund offerings to Iowa customers. The Board finds these commitments by Iowa RSA 10 adequate to assure that public interest concerns will be satisfied.

The Board also notes that pursuant to a recent federal mandate, Iowa RSA 10 is required to file a certification regarding its use of universal service funds with the Board. This filing will be made pursuant to the Board's rule 199 IAC 22.2(7), as described in Docket No. RMU-01-14, In re: Certification of Rural and Non-Rural Telecommunications Carriers.

IT IS THEREFORE ORDERED:

1. Eligible telecommunications carrier status is granted to Iowa RSA 10 General Partnership, as requested in its application filed November 8, 2002, and supplemented on December 4, 2002, and July 30, 2004, subject to the voluntary commitments described in the body of this order.

2. The designated service area for Iowa RSA 10 General Partnership shall be the area where Iowa RSA 10 General Partnership is licensed by the Federal Communications Commission to provide service.

3. The Executive Secretary of the Utilities Board shall mail copies of this order to Iowa RSA 10 General Partnership, the Universal Service Administration Company, the Federal Communications Commission Universal Service Branch, and the Federal Communications Commission Office of the Secretary.

UTILITIES BOARD

ATTEST:

Judith K. Cooper
Executive Secretary

Mark O Lambert
Elliot Smith

Dated at Des Moines, Iowa, this 13th day of September, 2004.

Exhibit 4

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ELIGIBLE TELECOMMUNICATIONS CARRIER DESIGNATION FOR WIRELESS CARRIERS [199 IAC 39.2]	DOCKET NO. RMU-03-13
--	----------------------

ORDER ADOPTING RULE

(Issued May 24, 2004)

Pursuant to the authority of Iowa Code §§ 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) is adopting the amendments attached hereto and incorporated herein by reference. On August 25, 2003, the Board issued an order in Docket No. RMU-03-13, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, "Order Commencing Rule Making." In the rule making, the Board proposed to adopt new paragraph 39.2(5)"c" regarding the granting of eligible telecommunications carrier (ETC) status to wireless telecommunications carriers based on their certification from the Federal Communications Commission (FCC). The Board also proposed to provide additional filing and compliance requirements for those wireless carriers that have received an ETC designation.

"Notice of Intended Action" was published in IAB Vol. XXVI, No. 6 (9/17/03) p. 500, as ARC 2773B. Written comments were filed on or before November 10, 2003, by the following nine companies: WWC License, LLC (Western Wireless), U.S. Cellular Corporation (US Cellular), Midwest Wireless Iowa (Midwest Wireless), Iowa

Wireless Services (Iowa Wireless), NPCR, Inc., d/b/a Nextel Partners (Nextel), Qwest Corporation (Qwest), Iowa Telecommunications Association (ITA), Rural Iowa Independent Telephone Association, and the Consumer Advocate Division of the Department of Justice. A public hearing to receive oral comments on the proposed amendments was held on Wednesday, December 10, 2003.

Initially, this rule making was divided into two distinct issues. The first issue addressed how the term "service area" should be defined for wireless carriers seeking ETC designation because the existing definition does not always align with the existing exchange boundaries for wireline carriers. The second issue addressed the Board's ability to impose the Board's established service quality rules on wireless carriers having ETC designation as well as the application of those rules to the wireless industry.

With respect to the proposed service area definition, neither Western Wireless, Iowa Wireless, Nextel, U.S. Cellular nor Midwest Wireless objected to the Board's attempts to simplify the ETC designation for process for wireless carriers. However, these parties indicated they did not agree with the proposed definition of "service area" as it relates to wireless carriers, i.e., that area where the wireless company has been licensed by the Federal Communications Commission to provide telecommunications service.

The focus of these parties' objection to the proposed "service area" definition centered on the Board's pre-existing rule, 199 IAC 39.2(1), which requires that each

ETC must offer services supported by the Universal Service Fund (USF) throughout the approved service area. The parties indicated that in many cases, a wireless carrier does not provide service throughout the FCC-licensed area and, therefore, if the proposed definition for "service area" were adopted, they likely would not be able to meet the requirement of subrule 39.2(1).

Nextel suggested that the Board amend the proposed definition of "service area" to reflect the area where the wireless carrier is seeking ETC designation. ITA and Qwest voiced their concerns over Nextel's proposal, stating that there should be a standard imposed that is to be met by all carriers and that Nextel's proposal would allow the wireless carrier to set its own individual standards.

The Board understands the wireless carriers' position on this issue. However, the Board disagrees with the suggestions raised by some of the carriers to amend the definition to reflect the service area as being only that area where the wireless carriers are seeking designation. The Board finds that the amendment suggested by Nextel would give too much latitude to the wireless carriers seeking ETC status by allowing them to define their own service area, apparently without restriction. As such, the proposed amendment would not provide a meaningful definition to the term "service area" as it relates to wireless carriers.

The Board will adopt its proposed definition for "service area" as it relates to wireless carriers. However, to address some of the wireless carriers' concerns over their ability to satisfy subrule 39.2, the Board will add a waiver provision to the

proposed rule that will allow a wireless carrier that does not have the facilities to serve its entire licensed area to seek a waiver of subrule 39.2.

Granting a waiver of subrule 39.2 in appropriate circumstances appears to be in accord with a recent FCC decision in which a wireless carrier offering services in Virginia received ETC designation in parts of its licensed service area in Virginia. Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, CC Docket No. 96-45, "Memorandum Opinion and Order," FCC 04-37 (rel. April 12, 2004). In reaching that decision, the FCC considered factors including the benefits of increased competitive choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding quality of telephone service provided by competing providers, and the competitive ETC's ability to provide the supported services throughout the designated service area within a reasonable time frame. Id., ¶4. In following the example established by the FCC, the Board will consider all of these factors, and any other relevant factors, when determining whether to grant a waiver of subrule 39.2(1).

To ensure that a waiver of subrule 39.2(1) is consistent with the public interest, the Board will require that a wireless carrier seeking a waiver of 39.2(1) also provide a statement to the Board that it will take the necessary steps to provide service to a requesting customer within its licensed service area but outside its existing network coverage. The FCC identified several of the possible steps a wireless carrier might

take to provide service as: 1) the modification or replacement of the requesting customer's equipment, 2) the deployment of a roof-mounted antenna or other equipment, 3) adjustments to the nearest cell tower, 4) adjustments to the network or the requesting customer's facilities, 5) an offering of resold services from another carrier's facilities, and 6) employment or construction of an additional cell site, cell extender or repeater. Id., ¶16.

With respect to the proposed service quality rules, widely noted in the written comments were problems relating to the applicability of the Board's established service quality rules to the wireless industry. The Board acknowledges that the existing service quality rules that were initially proposed in this rule making were designed for wireline service and do not always apply to the wireless industry in a sensible manner. Therefore, the Board will not adopt the requirement that wireless carriers receiving ETC designation shall comply with the Board's established service quality rules. In addition, the Board will also withdraw the proposed requirement that wireless carriers that obtain ETC designation shall file documentation of their customer service agreements with the Board. The Board may initiate a subsequent rule making to address these concerns.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-03-13, is adopted.

2. The Executive Secretary is directed to submit for publication in the Administrative Bulletin an "Adopted and Filed" notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 24th day of May, 2004.

UTILITIES DIVISION [199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2 and 47 U.S.C. § 214(e), the Utilities Board (Board) gives notice that on May 24, 2004, the Board issued an order in Docket No. RMU-03-13, In re: Eligible Telecommunications Carrier Designation for Wireless Carriers, "Order Adopting Rules," by which the Board adopted new paragraph 39.2(5)"c" regarding the granting of eligible telecommunications carrier (ETC) status to wireless telecommunications carriers based on their certification from the Federal Communications Commission (FCC). This rule is intended to redefine the term "service area" as it pertains to wireless telecommunications carriers and to increase the availability of wireless ETC status.

Notice of Intended Action was published in the IAB Vol. XXVI, No. 10 (9/17/03) p. 500, as ARC 2773B. Written comments were filed on or before November 10, 2002. A public hearing to receive oral comments on the proposed amendments was held on Wednesday, December 10, 2003.

Written comments were filed by the following nine parties: WWC License, LLC, U.S. Cellular Corporation, Midwest Wireless Iowa, Iowa Wireless Services, NPCR, Inc., d/b/a Nextel Partners, Qwest Corporation, Iowa Telecommunications Association, Rural Iowa Independent Telephone Association and the Consumer Advocate Division of the Department of Justice. A summary of the comments filed and the amendments adopted can be found in the Board's order located on the

Board's Web site, www.state.ia.us/iub, or hard copy in the Board's Record Center, 350 Maple Street, Des Moines, IA 50319. The Board determined based upon the comments that the proposed rule 39.5(476) should not be adopted. The Board adopted the other proposed amendments.

These proposed rules are intended to implement Iowa Code § 476.2 and 47 U.S.C. § 214(3), and amends Chapter 39 – Universal Service.

The following amendments are adopted and will become effective July 28, 2004.

Item 1. Amend subrule 39.2(5) by adding the following new paragraph "c":

c. In the case of a wireless telecommunications carrier, "service area" means that area where the wireless company has been licensed by the FCC to provide service.

1. If the application of this rule and the service requirement of 199—39.2(1), pose an undue hardship on a wireless telecommunications carrier seeking designation as an eligible telecommunication carrier, a wireless carrier may request a waiver of 199—39.2(1)(476), pursuant to 199—1.3(476).

2. Requests by a wireless telecommunications carrier for a waiver of 199—39.2(1)(476) must state, in addition to the requirements established in 199—1.3(476), the extent of the area in which the carrier is licensed to provide service by the FCC, the extent of the area in which the carrier is seeking designation, and the carrier's ability to expand universal service fund supported services throughout its licensed service area within a reasonable time frame. A request for a waiver under this paragraph must also include a statement that should a wireless carrier receive a request from a potential customer within its service area

but outside its existing network coverage, the wireless carrier will take a number of steps to provide service to that customer which may include modification or replacement of the requesting customer's equipment, deployment or installation of a roof-mounted antenna or other equipment necessary to provide service, cell tower adjustments, network or customer facility adjustments, an offer of resold services from another carrier's facilities to provide service, or the employment or construction of an additional cell site, cell extender or repeater

Item 2. Adopt the following new rule:

~~199—39.5(476) Standards for service quality for wireless carriers attaining designation as an eligible telecommunications carrier.~~

~~39.5(1) A wireless carrier that has received designation as an eligible telecommunications carrier shall comply with the service quality rules set forth in 199—22.6(476) with respect to all services provided as an eligible telecommunications carrier.~~

~~39.5(2) A wireless carrier that has received designation as an eligible telecommunications carrier shall file with the board documentation of the wireless carrier's customer service agreements that sets out all the rates, terms, and conditions applicable to its ETC-eligible local calling plans.~~

May 24, 2004

/s/ Diane Munns
Diane Munns
Chairman